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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,266	12/31/2003	John B. Abjanic	1020.P8759D	1751
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KACVINSKY LLC C/O INTELLEVATE P.O. BOX 52050 MINNEAPOLIS, MN 55402			EXAMINER NGUYEN, PHUOC H	
			ART UNIT 2143	PAPER NUMBER
			MAIL DATE 07/12/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/750,266

Applicant(s)

ABJANIC, JOHN B.

Examiner

Phuoc H. Nguyen

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 April 2007.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-13 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. This communication is responsive to Amendment filed 04/26/2007.
2. Claims 1-13 are pending in this application. Claims 1 and 7 are independent claims.

This Office Action is made non-final.

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1-13 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ayyagari et al. (U.S. 7,020,681) in view of Meltzer et al. (U.S. 6,226,675).

Re claim 1, Ayyagari et al. disclose in Figures 1-6 a network apparatus (e.g. Figure 1 and abstract) comprising: an XML checker to determine if a received message includes XML information (e.g. step 410 in Figure 5A wherein the proxy determines whether the message is an XML message or step 520 in Figure 6A).

Ayyagari et al. fail to disclose the network apparatus adapted to switch the message to an output port or to a selected processing node based upon business transaction information provided in XML in the message if the message includes XML information. However, Meltzer et al. disclose in Figure 3 the network apparatus adapted to switch (e.g. by component 304 in Figure 3) the message (e.g. incoming data from the network traffic 300 in Figure 3) to an output port or to a selected processing node (e.g. any component 305-308 as separated processing nodes) based upon business transaction information provided in XML in the message if the message includes XML information (e.g. parsing with component 303 for switching information in Figure 3 and col. 21 line 41 to col. 22 line 9).

Therefore, it would have obvious to a person having ordinary skill in the art at the time the invention is made to add fail to disclose the network apparatus adapted to switch the message to an output port or to a selected processing node based upon business transaction information provided in XML in the message if the message includes XML information as seen in Meltzer et al.'s invention into Ayyagari et al.'s invention because it would enable to provide a framework which facilitates interaction amongst diverse platforms in a communication network (e.g. col. 2 lines 18-26).

Re claim 2, Ayyagari et al. further disclose in Figures 1-6 the network apparatus is adapted to switch or forward the message substantially without XML processing if the message does not include XML information (e.g. col. 6 lines 5-25 wherein it only takes a look at the xml header in particular predetermined format).

Re claim 3, Ayyagari et al. further disclose in Figures 1-6 the network apparatus comprises a traffic manager (e.g. 200 as XML proxy and monitor in Figure 1).

Re claim 4, Ayyagari et al. further disclose in Figures 1-6 the network apparatus comprises a network processor (e.g. col. 5 lines 40-45).

Re claim 5, Ayyagari et al. further disclose in Figures 1-6 a content based message director to switch messages to one of a plurality of output ports (e.g. Figure 5 wherein either route to remote servers, local cache, client directly) or one of a plurality of processing nodes based upon comparing business transaction information provided in XML to a configuration pattern (e.g. col. 1 lines 40-45 and col. 4 lines 2-10).

Re claim 6, Ayyagari et al. further disclose in Figures 1-6 the network apparatus comprises an XML parser to parse XML information in the received message (e.g. col. 6 lines 5-25 wherein it only takes a look at the xml header in particular predetermined format).

Re claim 7, it is a method claim of claim 1. Thus, claim 7 is also rejected under the same rationale as cited in the rejection of rejected claim 1.

Re claim 8, it is a method claim of claim 2. Thus, claim 8 is also rejected under the same rationale as cited in the rejection of rejected claim 2.

Re claim 9, it is a method claim of claim 6. Thus, claim 9 is also rejected under the same rationale as cited in the rejection of rejected claim 6.

Re claim 10, it is a method claim of claim 5. Thus, claim 10 is also rejected under the same rationale as cited in the rejection of rejected claim 5.

Re claim 11, Ayyagari et al. further disclose in Figures 1-6 performing one of the following on the message if there is no match between the XML business transaction information and the configuration pattern: directing the message to a default location (e.g. 420 in Figure 5A); and blocking or not forwarding the message.

Re claim 12, Ayyagari et al. further disclose in Figures 1-6 the configuration pattern may indicate one or more of the following: a source or From entity of the message; a destination or To entity of the message (e.g. either the source or destination or both must exist in the message for identification purposes); a type of transaction; and a purchase amount.

Re claim 13, Ayyagari et al. further disclose in Figures 1-6 the determining if the received message includes XML information comprises performing one of the following: detecting a certain filename or type of filename in the message; detecting a certain type of filename extension in the message; examining header information in the message; and examining one or more tags in the message (e.g. col. 6 lines 5-25).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuoc H. Nguyen whose telephone number is 571-272-3919. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Phuoc H Nguyen  
Examiner  
Art Unit 2143

A handwritten signature in black ink, appearing to be 'Phuoc H Nguyen', written over a horizontal line.

July 9, 2007